

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, April 7, 2022

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 4 Curt Smith, and Commissioner District 5 Kristine Zonka

Absent: Commissioner District 3 John Tobia

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezoning and Conditional Use permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and Comprehensive Plan criteria. Opponents must also testify as to facts or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the board takes action on the request. Likewise, if a Commissioner has made a site visit, inspection, or investigation, the Commissioner must disclose that fact before the Board takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes for rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

C. PLEDGE OF ALLEGIANCE

Commissioner Smith led the assembly in the Pledge of Allegiance.

H.7. Brian G. and Debra S. Lawson (Kim Rezanka) Request a Change of Zoning Classification from GU to RR-1 with a BDP. (22Z00005) (Tax Accounts 2314706, 2314720, 2322365, 2322366, 2314737, 3018241, 2314738, 2314709)

Chair Zonka asked the Board if Items H.7. and H.12. could be moved to the front of the Agenda as the applicants have another meeting to attend this evening.

Commissioners Pritchett and Smith both stated that was fine.

Chair Zonka called for a public hearing to consider a change in zoning classification from GU to RR-1 with a Binding Development Plan (BDP), as requested by Brian G. and Debra S. Lawson.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for Brian G. and Debra S. Lawson requests a zoning classification from GU to RR-1 with a BDP; the application number is 22Z00005; and the Tax Account Numbers are 2314706, 2314720, 2322365, 2322366, 2314737, 3018241, 2314738, and 2314709; and they are located in District 1.

There being no further comments or objections, the Board approved the request for a change of zoning classification from GU to RR-1 with a Binding Development Plan for Brian G. and Debra S. Lawson.

Result: Approved
Mover: Rita Pritchett
Second: Curt Smith
Ayes: Pritchett, Smith, and Zonka
Absent: Tobia

H.12. The Heather Calligan Trust Requests a Small Scale Comprehensive Plan Amendment (22S.01) to Change the Future Land Use Designation from RES 1 to RES 4. (22PZ00001) (Tax Account 2112413)

Chair Zonka called for a public hearing to consider an ordinance setting forth the sixth Small Scale Comprehensive Plan Amendment 22S.01, changing the Future Land Use designation from RES 1 to RES 4, as requested by The Heather Calligan Trust.

Jeffrey Ball, Planning and Zoning Manager, stated The Heather Calligan Trust requests a Small Scale Comprehensive Plan Amendment (22S.01) to change the Future Land Use designation from RES 1 to RES 4; the application number is 22PZ0001; the Tax Account Number is 2112413; and it is located in District 1.

There being no comments or objections, the Board adopted Ordinance No. 22-08, setting forth the sixth Small Scale Comprehensive Plan Amendment 22S.01, changing the Future Land Use designation from RES 1 to RES 4, as requested by The Heather Calligan Trust.

Result: Adopted
Mover: Rita Pritchett
Second: Curt Smith
Ayes: Pritchett, Smith, and Zonka
Absent: Tobia

H.1. Scott Minnick requests a Change of Zoning Classification from AU to RR-1, With a Binding Development Plan (BDP) (22Z00003) (Tax Account 2004518)

Chair Zonka called for a public hearing to consider a change of zoning classification from Agricultural Residential (AU) to Rural Residential (RR-1), with a Binding Development Plan (BDP), as requested by Scott Minnick.

Jeffrey Ball, Planning and Zoning Manager, stated Scott Minnick is requesting a change of zoning classification from AU to RR-1, with a BDP; the application number is 22Z00003; the Tax Account number is 2004518; and it is located in District 1.

Scott Minnick stated he has a 10-acre parcel, actually over 10, that he is trying to get access off of Okaloosa Avenue; other homes have allowed access off of it; he was denied and told by Paul Body to get an easement; they shut it down; and they told him to do a BDP on this parcel, which why he is here today. He went on to say it is only to be one home on 2.7 acres, which over exceeds any home in the vicinity; and the parcel is only 11 inches too narrow for an in-house variance for the 10 percent.

Emilio Ramos stated he and his wife are potential buyers of the home in question; they moved here four years ago and he started working for the Titusville Fire Department; they hauled a 25 foot camper to Mims; and that has been where they have been ever since. He added Mr.

Minnick gave him a price two years ago and stuck with it and worked with them; there are no other properties he can afford on a fireman's paycheck; and he wanted to let the Board know who was buying the house.

Lynn Edlund stated his property shares a common property line on his north with the 3.38 acre parcel which is being asked to be rezoned today; the front parcel is approximately five acres, the second parcel about 2.5 acres, and the third is about 2.5 acres; there is a swale that goes over into the woods; there are two flag stem lots, and he has one; and there is Mirkwood Street that goes through there. He added one of his concerns is for his properties he has one flag stem coming in for both properties; all of the other acres have a flag stem for each house; he is told when he goes for permits, the rules may change, and he may need a flag stem for each parcel; and if this is true, if he had to get a flag stem for his property, it would not work because it would make three flag stems together. He stated as far as he knows there are six flag stems already approved, and it has caused problems with drainage on his property; the swale runs parallel from Dixie Way; it is blocked by all of these flag stems crossing it; that traps the water in place on all of those properties; and it now results in water spreading on all of his property. He noted in the over 25 years he has lived there, he has never seen water stand on his property for more than a day or two; and now it lasts for days; and recently when they received a lot of rain, he could not drive in his pasture, which was the first time he could not do that, because all of that water is trapped.

Chair Zonka asked Mr. Edlund if he has a flag stem to give him access to his property.

Mr. Edlund replied affirmatively.

Valerie Reyer stated she lives on Flounder Creek Road, actually south of Flounder Creek Road, it is a flag style right-of-way that goes to her home; she moved out there nine years ago; her main purpose for wanting to live out there was the rural setting; and she can ride her horse on Old Dixie Way. She noted her concern is if there is less land with more homes, what will that be for her riding down the road; she does not feel as safe because there will be a lot more traffic; that is why she is here today to ask the Board to think of her out there if there is a possibility of something tonight becoming where there is less land per home; and that is her concern out there. She pointed out to the Board on the map where her home is located.

Jerrad Atkins, President of the Scottsmeer Community Association, stated their work in the community includes addressing issues as they pertain to Scottsmeer and to its residents; moving east towards the river, the land parcels tend to be large; because of this, only folks who live within 500 feet of the property in question received notification about a rezoning application; only a couple of folks were notified; he went from door to door personally and notified neighbors and residents in the immediate area between Flounder Creek Road and Aurantia Road about the application; and he talked to the builder, his partner with Mr. Minnick, to get an understanding of the stated intentions on the lot in question. He went on to say immediately after they held a community meeting, specifically to discuss the zoning application, unanimously it was decided that the community was opposed to the rezoning as it establishes a precedence that is contrary to why many folks chose the community; as always, and as the Board may remember from three years ago, Scottsmeer accepts new residents with open arms who wish to assimilate to their rural way of life; the community has also met with the couple who intends to purchase the three acres in question, who the Board met a moment ago; and they would love to welcome them as well. He went on to add it is important to make the distinction that they are not opposed to a home being built on this land, but the community members at large are vehemently opposed to doing it through the rezoning, of course, for the same reasons as last time; it was also his understanding that prior to any changes in zoning or the Future Land Use Map, the Scottsmeer Small Area Study would be completed; although

they participated in the study about a year ago, they were never made aware of any conclusion to that; and at this time, on behalf of the residents of Scottsmoor, particularly those in the immediate vicinity of this land, he would ask the Board to please deny the request to rezone the property. He pointed out to the Board the 10 acres of land belonging to Mr. Edlund who ran out of time to speak; as he understands it, since this is not a main artery road, there cannot be three flag stems within 40 feet from one another; if this flag stem goes on the north side of the lot in question, there will be three in a row, touching; if it was moved to the south side and it were to border Mr. Edlund's property, it would sort of land lock his back piece of property, because he currently only has one flag stem that belongs to the middle piece; and it would land lock him from developing this piece in the future if he ever decided to do that. He concluded by saying they are not opposed to these folks building a home if there is any sort of way that they can get access to this road; Okaloosa Avenue and Wheeler Road are two County rights-of-way that both have access to that property; it has got two egress ingress points; those are viable options to get to the 10 acres; but his purpose for rezoning the three-acre piece is for no benefit of that property, it is only to the benefit of the adjacent property.

Chair Zonka asked what the neighborhood group's reason for being opposed was; she stated she is guessing that the average person does not know about zoning and that sort of stuff; and she asked are they opposed to one home being on 2.7 acres.

Mr. Atkins replied no; he stated in a nutshell it will be establishing a precedence if someone rezones a piece of property basically to make some more money on it; if they are able to rezone to RR-1, a piece of AU property in Scottsmoor, the next applicants may not have similar intentions; and he understands there is a BDP in place which may or may not hold.

Chair Zonka advised they do hold, they are completely legal; but as far as the speculation that it is setting a precedence, if he had ever been through some of these meetings, no one sets a priority, that is why people come before the Board; that is why it is always what is best for the neighborhood, whether they agree or disagree on a rezoning; and she wanted to make that point that there is no precedent set with that. She went on to say there may be at least an applicant's argument to that point, but just because one is appropriate for one, for example, it does not mean it is appropriate for the next.

Mr. Atkins noted it is also contrary to the Future Land Use Map in that area.

Tim Root stated they are here today because a developer wants to rezone a piece of property they own from AU to RR-1; this rezoning would not be good for the County or its residents; the rezoning will set a precedence for other land owners, both large and small, who may choose to follow, especially with today's housing market; there is a 50-acre parcel just down-the-road; and if that piece of property chooses to rezone, there are another 40 or 50 homes right there. He went on to say this scenario is not an if but rather a when; applications for rezoning like this are not going to stop, but instead, are going to increase; in this particular instance, the developer does have other solutions to his self-inflicted dilemma, he could build a road, tying to either Wheeler Road or Okaloosa Avenue; he also has the option of selling the 13 acres as one piece; and either way, he could build without causing the problems to the County and its residents. He added everyone here is, or should be, aware of the majority of costly problems the County faces with expansion of North Mims and the Scottsmoor area; instead of listening to just planners or engineers, the County should talk to people who actually deal with the existing increasingly major problems they encounter on a daily basis; the request by the owner to change the current zoning of this property to RR-1, he has already applied for a variance, which was denied, and he still has the option of joining Wheeler Road or Okaloosa Avenue with a road or selling the 13 acres as one piece; by denying this owner to rezone this piece of property to RR-1, he is not being harmed, he has other options; and if he chooses he can use either

one. He advised by not approving this request, the County Commission is not opening Pandora's Box to the development in North Mims and Scottsmeer.

Craig Schreiber stated his family moved up there in the 1980's because he wanted to raise his daughters in a country environment; the AU-2 zoning was a big issue there; they wanted to live in a place that was not a massive development, they moved from Melbourne; they raised their daughters there in an environment that showed them self-sufficiency and appreciation for nature, which is what everyone in that community looks for; environments like this are getting hard to find; and at his age, he does not want to be looking around. He went on by saying he read the County's Administrative Policy on rezoning, and it does indicate that what has happened in the previous three years is considered and the changes that have been made; if the County zones RR-1, it seems to him it is setting a precedence of the nature; he has heard the BDP can be changed; he does not know how difficult that is; but he has heard it has been done before. He stated by opening that Pandora's Box, all of the residents will suffer; they moved there to ride horses; he feels they will lose that when more and more houses are built there; they are paying a half cents sales tax to clean up the Indian River; and by adding more septic systems on there, it is fighting that whole problem causing more problems for that. He noted it will destroy their way of life; the change is not going to benefit the community; it is not going to benefit society, and it is only going to benefit Mr. Minnick. He asked the Board to reject this proposal.

David Laney stated he thinks it is almost exactly three years when they were all here speaking on another topic; he is here to talk about the rezoning request on a piece of property that is owned by the same person; he showed the Board the property owned by Mr. Minnick on the overhead projector, excluding the property owned by Mr. Edlund; when he first heard about this, he realized he was ignorant of what had been said out here; and he decided to become a little bit more familiar with it. He stated in May 2020, Scott Minnick purchased lot 1233456778 of Indian River Park; he purchased what is a pre-planted subdivision; pre-planted subdivision from the standpoint of meeting all the like and all the criteria of a subdivision, including it being set forth with a lot of identifiers; it constitutes more than three homes; and it is 11 lots, a solid subdivision. He stated they include internal to this larger plat, 30 foot easements for future public road yet to be named; there has been no public roads developed interior to this space since Mr. Minnick bought it; what he did set out to do is to try to figure out this is going to be a flag, and how many flag lots there are; he is requesting to change the zoning on 2.76 acres if the Parcel 7.01 from its current AU, which is 2.5, and 2.5 by Future Land Use Map to an RR-1 with a BDP, to put a home on a non-compliant AU two and a half lot; it will be compliant from the standpoint of total square footage; but it will not be compliant from the standpoint of road frontage for an AU two and a half. He went on to add he is requesting the zoning to RR-1, then with the BDP on it, it will be a non-standard AU lot in as it does not meet the frontage requirements but it will be built as an AU because it is over 2.5 acres; that is all for the purpose of accessing the 10 lots, the 10 acres behind it; a variance is the actual written word the strict application of the written word of the variance itself or the procedure or the ordinance; this would be a variance by the definition within Brevard County ordinances; and there are certain conditions to add a variance such as an abnormal lot size. He stated what a variance cannot be allowed for is if the potential financial hardship is a result of the individual's own actions; this is as a result of an individual's own actions; since Mr. Minnick bought this property, he has had the opportunity to realign it, to comply with the previous plats to establish the future public road yet to be named, which is right in the legal descriptions; and none of that has happened. He mentioned looking to find all of the flag lots; it looks like there are additional roads here; Mirkwood Street is 30 feet leading into a stormwater ditch and trees; Mirkwood Street comes off of US 1 and dead ends there; and it does not follow through. He added Wheeler Road, which could have been utilized, is to the south of the property.

Commissioner Smith asked if Mr. Laney introduced all of this information to the Planning and Zoning Board.

Mr. Laney replied no, he only had three minutes; he stated he was waiting for their notes to come out because in the finalized notes they are supposed to justify and document why they approved; there is only an excerpt; and he checked again as late as 2:00 this afternoon. He pointed out he does not know what real rationale was used by Planning and Zoning to recommend this; there are multiple issues on this particular building area; and this does not just start to scratch it.

Commissioner Pritchett stated the whole package that has to be dealt with later and there is going to be some things that have to be worked through; the area up there, they are trying to maintain consistency with the rural area; she is having troubles with a lot of the properties being subdivided and no way to get to the roads; they are trying to figure out down the road when someone buys a piece of land, if they do sub-lot it, they are going to have to build the road themselves, it is going to have to be part of the package; and the County is working on how to do that. She went on to say as of right now, if the applicant would have tried to make this a smaller lot, he may have ran into a little bit more trouble with her with consistency; but he is keeping it at 2.5 acres, and he must do the BDP; it has to keep the AU personality to it; he is getting the flag lot out there; and she does not know what he will do with the back properties, how he will end up pulling this off later, but that is not something being discussed right now. She noted it is important to keep the larger lots out there, especially on that side; again, this is 2.5 acres still consistent with the other side of the road over there; she heard some comments about the stormwater, but when they come back for permitting and building, they will have to maintain their own stormwater, and they have to work through all of that; and there is another layer of things to go through. She pointed out this is just deciding a way for him to build on a 2.5 acre piece of property and running the flag lot, which is consistent with what is being done out there; it is not going to be a free pass to the rest of the property; he will have to come in and figure that out as well; she is working on some grant funds to pave Dixie Way; and if they do not want that road paved, he or she will have to let her know soon. She stated it is years in the future, but it is like a \$20 million project. She stated legally it is consistent, they are maintaining their own stormwater.

Chair Zonka stated maybe Tad Calkins, Planning and Development Director, can explain to the general public, and anyone who is interested in hearing, how the BDP is attached to the property.

Mr. Calkins stated the BDP is recorded in the public records which then gets attached to the legal description of that property, so when somebody does a title search when there is a transfer of ownership, it will come up through that search; there has been some concern amending that; according to the Code, if someone were to come in to amend the BDP, it is a zoning action, so there has to be notifications, very similar to what occurred in this application; and then that would go before the Planning & Zoning (P&Z) Board and the Board of County Commissioners.

Chair Zonka stated for her what she heard a lot was the neighbors wanted to keep consistent with that rule, more spaced out; they cannot have it both ways; they cannot say they want consistency and then fault the guy for trying to make a single-home on two and one-half acres; she thinks that is consistent itself; and she thinks it would almost be wrong not to approve it. She pointed out Commissioner Pritchett will beat down anyone who tries to harm north County.

There being no further comments, the Board approved the request to change the zoning classification from AU to RR-1, with a BDP, as recommended for Scott Minnick.

Result: Approved
Mover: Rita Pritchett
Second: Curt Smith
Ayes: Pritchett, Smith, and Zonka
Absent: Tobia

H.2. Clair John Jaussi and Janet Hamilton Jaussi Revocable Trust Requests a CUP for Six Goats in an SEU Zoning Classification. (22PZ00002) (Tax Account 2416958)

Chair Zonka called for a public hearing to consider a request for a CUP for six goats in an SEU zoning classification, as requested by Clair John Jaussi and Janet Hamilton Jaussi Revocable Trust.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for Clair John Jaussi and Janet Hamilton Jaussi Revocable Trust requesting a Conditional Use Permit (CUP) for six goats in an SEU zoning classification; the application number is 22PZ00002; the Tax Account number is 2416958; and it is located in District 2.

Clair Jaussi stated he is the Trustee of this family trust; this is a piece of property on the Indian River on North Tropical Trail; it is a 10 acre piece of property divided by North Tropical Trail; about 2.7 acres is on the east side and is designated as AU, a really thick jungle, and has wetlands classification; the property on the west side is seven acres, plus a little, that has a single-family residence on it; and it is all under one ownership. He went on by saying he is requesting a CUP to bring six goats onto that part of the property; the main reason being he is spending about \$150 a week to mow the darned stuff; and he is hoping the goats can help. He stated the goats will be 200 to 250 feet from the river; he was going to subdivide; this is not an area where this is happening; and he would like to keep his in one piece and keep goats.

There being no further comments or objections, the Board approved request of Clair John Jaussi and Janet Hamilton Jaussi Revocable Trust for a CUP for six goats in an SEU zoning classification, as recommended.

Result: Approved
Mover: Curt Smith
Second: Rita Pritchett
Ayes: Pritchett, Smith, and Zonka
Absent: Tobia

H.3. Storsafe of Rockledge, LLC (Nathan Lee) requests a Small Scale Comprehensive Plan Amendment (21S.03) to Change the Future Land Use Designation from RES 4, NC, and CC, to all CC. (21PZ00083) (Tax Accounts 2511096, 2511103, 2511119)

Chair Zonka called for a public hearing to consider a Small Scale Comprehensive Plan Amendment (21S.03) to change the Future Land Use designation from RES 4, NC, and CC, to all CC, as requested by Storsafe of Rockledge, LLC.

Jeffrey Ball, Planning and Zoning Manager, advised he is going to read Items H.3. and H.4. as they are companion applications; it is Storsafe of Rockledge, LLC requesting a Small Scale Comprehensive Plan Amendment 21S.03, to change the Future Land Use designation from RES 4, Neighborhood Commercial (NC), and CC to all CC; the application number is 21PZ00083; the Tax Account Numbers are 2511096, 2511103, and 2511119; and this is located in District 2. He went on to say Item H.4. is Storsafe of Rockledge, LLC, requesting a

change of zoning classification from AU and BU-1 to BU-2; the application number is 22Z0004; the Tax Accounts are 2511096, 2511103, and 5211119; and it is located in District 2. He pointed out these items need to be tabled to the Board meeting on May 5, 2022.

There being no further comments, the Board tabled consideration of request for a Small Scale Comprehensive Plan Amendment (21S.03) to change the Future Land Use designation from RES 4, NC, and CC, to all CC, for Storage of Rockledge, LLC, to the May 5, 2022, Zoning meeting.

Result: Tabled

Mover: Curt Smith

Second: Rita Pritchett

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.4. Storsafe of Rockledge, LLC (Nathan Lee) Requests a Change of Zoning Classification from AU and BU-1 to BU-2. (22Z00004) (Tax Accounts 2511096, 2511103, 2511119)

Chair Zonka called for a public hearing to consider a change of zoning classification from AU and BU-1 to BU-2 (22Z00004) (Tax Accounts 2511096, 2511103, 2511119), as requested by Storsafe of Rockledge, LLC (Nathan Lee).

There being no further comments, the Board tabled consideration of a change of zoning classification from AU and BU-1 to BU-2, for Storage of Rockledge, LLC, to the May 5, 2022, Zoning meeting

Result: Tabled

Mover: Rita Pritchett

Second: Curt Smith

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.5. Rushing Wind, LLC (Steven Austin) requests a Small Scale Comprehensive Plan Amendment (22S.02) to Change the Future Land Use Designation from RES 1 to RES 4. (22PZ00003) (Tax Account 3008616)

Chair Zonka called for a public hearing to consider a Small Scale Comprehensive Plan Amendment (22S.02) to change the Future Land Use designation from RES 1 to RES 4, as requested by Rushing Wind, LLC.

Jeffrey Ball, Planning and Zoning Manager, stated Items H.5. and H.6. are companion applications; Rushing Wind, LLC is requesting a Small Scale Comprehensive Plan Amendment (22S.02) to change the Future Land Use designation from RES 1 to RES 4; the application number is 22PZ00003; the Tax Account number is 3008616; and this is located in District 3. He went on to say Item H.6. is Rushing Wind, LLC, which is requesting a zoning classification change from RR-1 and IN(L) to RU-1-11; the application number is 22Z00001; the Tax Account is 3008616; and it is located in District 3.

Tad Calkins, Planning and Development Director, explained he believes the request is to remand this back to the Local Planning Agency (LPA), because during the LPA meeting there was some confusion with the applicant amending the application to RES 2; when they come to the Board, they still want to be able to request RES 4 for the density; and for that to happen, it

would have to go back to the LPA so it could have a formal consideration and recommendation for the Board on the RES 4. He pointed out if the Board send sit back to the April 18, 2022, LPA meeting, then that brings it back to the Board of County Commissioners on May 5, 2022.

There being no further comments, the Board tabled consideration of Small Scale Comprehensive Plan Amendment (22S.02) to the Future Land Use designation from RES 1 to RES 4, for Rushing Wind, LLC, to the April 18, 2022, Local Planning Agency meeting, and the May 5, 2022, Zoning meeting.

Result: Tabled

Mover: Rita Pritchett

Second: Curt Smith

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.6. Rushing Wind, LLC (Steven Austin) Requests a Change of Zoning Classification from RR-1 and IN(L) to RU-1-11. (22Z00001) (Tax Account 3008616)

Chair Zonka called for a public hearing to consider a change in zoning classification from RR-1 and IN(L) to RU-1-11, as requested by Rushing Wind, LLC.

There being no comments or objections, the Board tabled consideration of a request to change zoning classification from RR-1 and IN(L) to RU-1-11, for Rushing Wind, LLC, to the April 18, 2022, Local Planning Agency meeting, and the May 5, 2022, Zoning meeting.

Result: Tabled

Mover: Rita Pritchett

Second: Curt Smith

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.8. John Johanson Requests a Change of Zoning Classification from AU to RU-1-13. (22Z00002) (Tax Account 2501508)

Chair Zonka called for a public hearing to consider request to change the zoning classification from AU to RU-1-13, as requested by John Johnason.

Jeffrey Ball, Planning and Zoning Manager, stated this is a request of John Johanson for a zoning classification from AU to RU-1-13; the account number is 22Z00002; the Tax Account number is 2501508; and it is located in District 2.

John Johanson stated right now his property is zoned AU; he would like to change the zoning to RU-1-13; it is three lots coming off of South Tropical Trail; he would like to make it two lots coming off of Victoria Street; and that is basically it.

There being no further comments or objections, the Board approved a request of a change of zoning classification from AU to RU-1-13, as recommended for John Johnason.

Result: Approved

Mover: Rita Pritchett

Second: Curt Smith

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.9. South Beach Cove Development Corp.; and Robert A. Baugher, Trustee (David Menzel) Request a Change of Zoning Classification from RU-2-15 to BU-1. (21Z00050) (Tax Account 2520070)

Chair Zonka called for a public hearing to consider a zoning classification change from RU-2-15 to BU-1, as requested by South Beach Cove Development Corp and Robert A. Baugher, Trustee.

Jeffrey Ball, Planning and Zoning Manager, stated this is Item H.9 for South Beach Cove Development Corp and Robert A. Baugher, Trustee, requesting a change of zoning classification from RU-2-15 to BU-1; the application number is 21Z00050; the Tax Account is 2520070; and it is located in District 2.

David Menzel stated this property was rezoned approximately 10 years ago to multi-family; there is currently an existing office building on it; it was non-conforming; they would like to develop the property into five lots; and in doing that, they had to reconfigure the property so the entrances could be consolidated into one instead of two. He went on to say staff has asked them to rezone the reconfigured piece back to commercial because the building is existing.

Robert Baugher stated the point he wants to make is they are not making the non-conforming any larger, they are actually making the parking lot smaller; and then they are instead of having two entrances on A1A, they are moving it south and have one entrance, so he did not think he needed a zoning change, but staff disagreed with him. He pointed out there will end up being less parking spaces in the commercial area right now, less paved area.

There being no further comments made, the Board approved a request for a zoning classification change from RU-2-15 to BU-1, as requested by South Beach Cove Development Corp and Robert A. Baugher, Trustee.

Result: Approved

Mover: Curt Smith

Second: Rita Pritchett

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.10. Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri) Request a Small Scale Comprehensive Plan Amendment (21S.11) to Change the Future Land Use Designation from NC to CC. (21PZ00095) (Tax Accounts 2511036 & 2511043)

Chair Zonka called for a public hearing to consider an ordinance setting forth the fifth Small Scale Comprehensive Plan Amendment 21S.11, changing the Future Land Use designation from NC to CC.

Jeffrey Ball, Planning and Zoning Manager, stated Items H. 10. and H.11. are companion applications by Murrell Properties of Brevard, LLC and Harmony Villas Properties, Inc.; Item H.10. is requesting a Small Scale Comprehensive Plan Amendment (21S.11) to change the Future Land Use designation from NC to CC; the application number is 21PZ00095; the Tax Account Numbers are 2511036 and 2511043; and they are located in District 2. He added H.11. is requesting of zoning classification from BU-1-A to BU-1; the application number is Item 21Z00049; the Tax Account Numbers are 2511036 and 2511043; and it is located in District 2.

Vaheed Teimouri, P.E. representing Johan Sturm in this matter, stated these are two separate parcels with two existing buildings on them; one of them they just site planned; they were BU-1-A and group homes; in order to get more in density, they needed to BU-1; and Phase 1, the northern part, they want 24 units, but the current zoning only allows them up to 14. He advised it has already been site planned; Phase 2 has really been held up; so after this goes through then a site plan can be applied for the remaining 10 units; the same thing is going to happen on the southern property; and then they will come in for site plans through the County.

Commissioner Pritchett asked if he has the ability to connect to the City of Rockledge sewer, and if he will be doing that.

Mr. Teimouri responded they just installed the lift station, they approved it without annexation. Chair Zonka asked if the applicant can still accomplish what he wants to without this particular change in Future Land Use.

Mr. Ball replied in analyzing the request, it was staff's determination that IN(L), which is institutional light zoning district that will allow for Assisted Living Facility (ALF), which Mr. Vaheed is asking for.

Chair Zonka asked if this information was given to the applicant, because it seems like it would be easier for them to do this.

Mr. Ball advised it was an either/or for the Board to decide if the Board did not feel the request was consistent and compatible with the area, it would give the Board a different outcome.

Chair Zonka asked if based on the project that they want to do, will it limit their project that they have planned.

Mr. Ball responded no, it would not; an ALF is permanent with conditions in both the BU-1 and IN(L) zoning classifications; and the only difference in that is that it would not require a land use change, so the NC land use is still consistent with an IN(L) zoning classification.

Chair Zonka asked if staff had this conversation with the applicant.

Mr. Ball replied no, they have not.

Mr. Teimouri pointed out he does not think the site is capable of supporting anymore density on this, so they are happy with what they have; the infrastructure has to be in place for it to happen; and unfortunately, the site would not be able to support any more density.

There being no comments or objections, the Board adopted Ordinance No. 22-09, setting forth the fifth Small Scale Comprehensive Plan Amendment 21S.11, changing the Future Land Use designation from NC to CC, as requested by Murrell Properties of Brevard, LLC and Harmony Villas Properties, Inc.

Result: Adopted

Mover: Curt Smith

Second: Rita Pritchett

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.11. Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri) Request a Change of Zoning Classification from BU-1-A to BU-1. (21Z00049) (Tax Accounts 2511036 & 2511043)

Chair Zonka called for a public hearing to consider a zoning classification change from BU-1-A to BU-1.

There being no comments or objections, the Board approved the zoning classification request from BU-1-A to BU-1, as requested by Murrell Properties of Brevard, LLC and Harmony Villas properties, Inc.

Result: Approved

Mover: Rita Pritchett

Second: Curt Smith

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.13. Norfolk Parkway, LLC (Bruce Moia) Requests a Change of Zoning Classification from GU with a Conditional Use Permit (CUP) to BU-2 and Removal of CUP. (22Z00006) (Tax Accounts 2802674 & 2802676)

Chair Zonka called for a public hearing to consider a request for a change in zoning classification from GU with a CUP to BU-2 and removal of CUP, with a Binding Development Plan (BDP).

Jeffrey Ball, Planning and Zoning Manager, stated H.13. is Norfolk Parkway, LLC requesting a change of zoning classification from GU with a CUP to BU-2 and removal of a CUP; the application number is 22Z00006; the Tax Accounts are 2802674 and 2802676; and this has a BDP, and is located in District 5.

There being no objections or comments, the Board approved zoning classification change from GU with a CUP to BU-2 and removal of CUP, with a BDP, as requested by Norfolk Parkway, LLC.

Result: Approved

Mover: Curt Smith

Second: Rita Pritchett

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

H.14. Public Hearing, Re: Wireless Telecommunications Facilities Ordinance (First Reading)

Chair Zonka called for the first public hearing to consider Code revisions to Chapter 62, Article VI, Division 7, addressing emerging wireless technology.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.14. is a public hearing for the Wireless Telecommunications Facilities Ordinance (First Reading); a couple of months ago, the Board directed staff to update the Code to bring the Federal and State regulations for the wireless telecommunications facilities; this ordinance will add a definition to the wireless telecommunication facilities, and also provide restrictions and placing them in residential districts; and it will also have setbacks. He went on to say the Building Construction Advisory

Committee announced they approved this request; and the Planning and Zoning denied the recommendation citing concerns of the 5G technology, and health and safety issues.

Commissioner Pritchett stated this is strictly trying to encourage commercial to try to move into commercial and residential to stay more residential; this is mainly for those parameters; as the County is growing and it has different aspects of technology come in, it is just a tool to help maybe try to guide that some; and there is still areas and right-of-ways in many areas, but it is to watch school zones and places where kids are playing mostly.

There being no comments or objections, the Board conducted the first public hearing to consider code revisions to Chapter 62, Article VI, Division 7, addressing emerging wireless technology.

Result: Continued

Mover: Rita Pritchett

Second: Curt Smith

Ayes: Pritchett, Smith, and Zonka

Absent: Tobia

K. PUBLIC COMMENTS

Vaheed Teimouri stated three years ago he started building a house right at Brandywine Lane and Sugar Creek Drive, the entrance there at the corner of Sugar Creek Drive; during those times, if they had another rainfall like they did last week, about four or five inches in a couple of hours; that whole sidewalk along Brandywine Lane got flooded basically; and it was almost ankle deep. He went on by saying he met at the Commissioner's Office at that time and the County was gracious at that time and had the sidewalk redone because it was below the road, there was no drainage facilities, that was Phase 1; since then there was a Phase 2 of the project that was supposed to provide a positive outfall for this; they met with Susan Jackson, Public Works Director, at that point; he offered to provide some services; but unfortunately, they did not take his offer to do this pro bono for whatever reason, and hired a consultant out of Orlando. He noted three years and \$100,000 later, nothing has been done, and they really decided to do this in-house; again, last Thursday same rainfall, same situation; in front of his house, did not get as much flooding, but it transferred the water north and south, and ankle deep water on the sidewalks; he is concerned as there is a lot of people using that sidewalk; and if this does not get resolved, the County is probably going to have a legal issue on its hands. He stated he has emailed the Public Works Engineering Manager a few days ago and sent her some pictures, but he has not gotten a response; he has been following this out for three years and nothing; and he is using this opportunity since he is here tonight to bring it to the Board to find out why that much money was spent with no results.

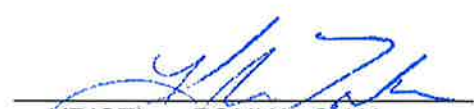
Commissioner Smith asked Mr. Teimouri to reach out to his office.

Chair Zonka pointed out it is her District, she will take care of it.

Upon motion and vote, the Board adjourned at 6:09 p.m.

ATTEST:



RACHEL SADOFF, CLERK

KRISTINE ZONKA, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by Board July 12, 2022